

FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN

	)	
UNITED STATES OF AMERICA and the	)	
PEOPLE of the VIRGIN ISLANDS,	)	
	)	
Plaintiffs,	)	Criminal No. 2008-29
	)	
v.	)	
	)	
MALIK OSTALAZA,	)	
	)	
Defendant.	)	
_____	)	

ATTORNEYS:

Ishmael A. Meyers, Jr., AUSA  
St. Thomas, U.S.V.I.  
*For the plaintiffs.*

Jesse A. Gessin, AFPD  
St. Thomas, U.S.V.I.  
*For the defendant.*

SENTENCING MEMORANDUM OPINION

GÓMEZ, C.J.

The defendant, Malik Ostalaza ("Ostalaza"), was indicted in June, 2008 on three firearms-related counts and one count of interfering with an officer discharging his duty. Ostalaza pled guilty to two of the firearms counts: possession of a firearm with an obliterated serial number and unauthorized possession of a firearm. The Court held a sentencing hearing on November 26,

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2008. At the conclusion of the hearing, the Court sentenced Ostalaza to a term of imprisonment of eighteen months. This Opinion outlines the factors considered by the Court when it imposed that sentence.

In addition to the United States Sentencing Commission, Guidelines Manual, and the relevant statutes, the Court is required to give "meaningful consideration" to the factors set out in 18 U.S.C. § 3553(a) ("Section 3553(a)"). *United States v. Cooper*, 437 F.3d 324, 329 (3d Cir. 2006). Section 3553(a), in pertinent part, provides:

The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider-

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed-

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training,

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medical care, or other correctional  
treatment in the most effective manner[.]

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing  
range established . . . .

. . .

(5) any pertinent policy statement--

. . .

(6) the need to avoid unwarranted sentence  
disparities among defendants with similar  
records who have been found guilty of similar  
conduct; and

(7) the need to provide restitution to any  
victims of the offense.

18 U.S.C. 3553(a).

The Court has carefully considered the several factors  
enumerated in Section 3553(a). In particular, the Court notes  
that the crimes to which Ostalaza has pled guilty are serious  
firearms offenses, each of which carries a statutory maximum  
penalty of five years imprisonment. The Court also notes that  
the circumstances surrounding Ostalaza's offenses are especially  
egregious, in that he possessed a firearm with an obliterated  
serial number in the heavily-populated Carnival Village, during  
the yearly carnival in St. Thomas. Additionally, the sentence  
imposed ensures parity among similarly situated defendants.

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Finally, the Court finds that the sentence imposed on Ostalaza is necessary to deter future criminal conduct.

S\\_\_\_\_\_  
CURTIS V. GÓMEZ  
Chief Judge